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October 6, 2004

Via Electronic Filing

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
445 Twelfth Street, S.W.
Washington, D.C. 20554

Re: Notice of *Ex Parte* Meeting
Developing a Unified Intercarrier Compensation
Regime, CC Docket No. 01-92; Implementation of the Local
Competition Provisions in the Telecommunications Act of 1996,
CC Docket No. 96-98; Intercarrier Compensation for ISP-Bound
Traffic, CC Docket No. 99-68; Unbundled Access to Network
Elements, WC Docket No. 04-313 and CC Docket No. 01-338

Dear Ms. Dortch:

On October 5, 2004, Richard S. Whitt, Vice President, Public Policy/Federal Advocacy, and Alan Buzacott, Senior Manager, Regulatory Affairs, of MCI, Inc. ("MCI"), and A. Richard Metzger, Jr. of Lawler, Metzger, and Milkman, LLC, counsel to MCI, met separately with Commissioner Kevin Martin and Daniel Gonzalez, Senior Legal Advisor to Commissioner Martin; and Commissioner Kathleen Abernathy and Matthew Brill, Senior Legal Advisor to Commissioner Abernathy, to discuss issues pending before the Commission in the above-referenced proceedings. MCI's presentation was consistent with its prior written submissions in these proceedings. In particular, MCI urged the FCC to conclude that ISP-bound traffic falls within the scope of the Commission's section 251(b)(5) authority. MCI further pointed out that this result is both consistent with the plain language of the statute and the Court of Appeals' decision in *WorldCom v. FCC*, and would affirm the agency's broad authority under that provision to adopt a comprehensive plan for intercarrier compensation.

Additionally, MCI urged the FCC to deny or decline to address BellSouth's petition concerning access to TDM-compatible unbundled loops and its request to be relieved of its obligation to unbundle fiber to the curb. Attached is an *ex parte* presentation filed by MCI on May 25, 2004, that was presented to the participants in both meetings.

Marlene H. Dortch
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Pursuant to the Commission's rules, 47 C.F.R. § 1.1206(b)(2), this letter is being filed electronically with the Office of the Secretary. If you have any questions, please do not hesitate to contact me.

Respectfully submitted,

/s/ A. Richard Metzger, Jr.
A. Richard Metzger, Jr.

cc: Commissioner Kathleen Q. Abernathy
Commissioner Kevin J. Martin
Matthew Brill
Daniel Gonzalez



May 25, 2004

BY ELECTRONIC FILING

Marlene H. Dortch, Secretary
Federal Communications Commission
445 Twelfth Street, S.W.
Washington, D.C. 20554

Re: *Ex Parte Presentation*
In the Matter of Review of the Section 251 Unbundling
Obligations of Incumbent Local Exchange Carriers,
CC Docket Nos. 01-338, 96-98, 98-147

Dear Ms. Dortch:

In its Petition for Reconsideration of the *Triennial Review Order*, BellSouth requests that the FCC “ensure that its rules are not misconstrued to impose unbundling or network design requirements on next-generation networks.”¹ In support of its request, BellSouth points vaguely to the danger that “some CLECs could attempt to distort the Commission’s rules,” and argues that it is thus vital that the FCC “ensure that ILECs are not required to provide unbundled access to their next-generation networks or to design, reconfigure, or modify those networks to facilitate an unbundling request for a TDM capability.”² As MCI has explained previously, it is virtually impossible to determine the precise scope of the relief sought by BellSouth. In fact, grant of the relief as requested would result in an impermissibly vague standard that, far from providing clarification, would lead almost certainly to greater confusion regarding the ability of competitors to obtain unbundled access to TDM-compatible loops. MCI thus urges the FCC to deny or decline to address BellSouth’s requested relief at this time.

If the Commission were to decide to address the issue, however, the Commission must ensure that competitors continue to have access to TDM-compatible loops to the

¹ BellSouth Petition for Clarification and/or Partial Reconsideration, CC Dkt. No. 01-338, *et al.*, at 16 (Oct. 2, 2003).

² *Id.* at 16-17.

extent that those loops are available to BellSouth's retail customers. In particular, the Commission should make clear that, to the extent an incumbent LEC continues to make available TDM-compatible DS1 and DS3 circuits in its special access tariffs, the Commission will consider those tariffs to be dispositive evidence that the incumbent LEC routinely makes whatever network modifications are required to offer TDM-compatible circuits to its retail customers, and under the Commission's rules regarding routine network modifications to existing facilities, incumbent LECs must make available TDM-compatible DS1 and DS3 loop and transport unbundled network elements.

Pursuant to the Commission's rules, this letter is being provided to you for inclusion in the public record of the above-referenced proceeding.

Respectfully submitted,

/s/ Henry G. Hultquist

Henry G. Hultquist

cc: Scott Bergmann
Matthew Brill
Dan Gonzalez
Christopher Libertelli
Jessica Rosenworcel
Pam Arluk
Michelle Carey
Jeffrey Carlisle
Marcus Maher
William Maher
Tom Navin
Rob Tanner